

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
MICHIGAN TAX TRIBUNAL

Briggs Tax Service, LLC, et al,
Petitioners,

v

MTT Docket No. 319592

City of Detroit, et al,
Respondents.

Tribunal Judge Presiding
Patricia L. Halm

ERRATA TO THE TRIBUNAL’S ORDER PARTIALLY GRANTING AND PARTIALLY
DENYING PETITIONER’S MOTION TO COMPEL DISCOVERY ENTERED APRIL 4, 2006

ORDER DENYING PETITIONER’S MOTION FOR ENTRY OF DEFAULT AND
SANCTIONS AGAINST RESPONDENT CITY OF DETROIT FOR VIOLATION OF ORDER
COMPELLING DISCOVERY

On March 2, 2006, Petitioner Briggs Tax Service, LLC (“Briggs”), filed a motion requesting the Tribunal to compel Respondent City of Detroit and Respondent Treasurer of Wayne County to respond to interrogatories and document production requests served on December 16, 2005. On April 4, 2006, the Tribunal issued an Order titled “Order Partially Granting and Partially Denying Petitioner’s Motion to Compel Discovery.” On page three of that Order, the Tribunal began to refer to Respondent Detroit Public Schools instead of Respondent City of Detroit. This is an error as the Motion to Compel was directed only to Respondents City of Detroit and Wayne County, not the Detroit Public Schools. Therefore, it is necessary to correct the Tribunal’s April 4, 2006 Order.

On May 8, 2006, Petitioner Briggs filed a motion titled “Petitioner’s Motion for Entry of Default and Sanctions Against Respondent City of Detroit for Violation of Order Compelling Discovery.” In this motion, Petitioner Briggs states that Respondent City of Detroit failed to comply with the Tribunal’s April 4, 2006 Order. In Footnote 1, Petitioner Briggs recognizes the fact that the Tribunal’s Order incorrectly refers to Respondent Detroit Public Schools. However, Petitioner argues that it is clear that the Tribunal’s Order was directed to Respondent City of Detroit. Petitioner asserts that “[t]he failure of the City of Detroit to provide discovery has deprived Briggs of the ability to develop the facts necessary to prepare and present its case.” (Motion, p3) Petitioner requests that the Tribunal place Respondent City of Detroit in default.

On May 22, 2006, Respondent City of Detroit responded to Petitioner’s Motion for Entry of Default. In its response, Respondent states that its “...representative has reviewed this Tribunal’s Order ...and with all due respect fails to discern anywhere within the Order that the City of Detroit is being compelled to do anything.” (Response, p2) Additionally, Respondent states that the Tribunal found that:

...the work required of Respondent to comply with this request and the expense to Respondent will far exceed the amount of money at issue. The request needlessly increases the cost of litigation, is unreasonable and unduly burdensome given the needs of the case, the correspondingly limited time frame for discovery, the schedule set of this case, and the amount in controversy.” (Response, p2)

For these reasons, Respondent City of Detroit believed that the Order did not apply to the City.

As previously discussed, the Tribunal’s Order referred to Defendant Detroit Public Schools when it should have referred to Defendant City of Detroit. While the Tribunal’s intention may have been clear to Petitioner, the Order did not compel Defendant City of Detroit to do anything. For this reason, Petitioner’s Motion must be denied.

The purpose of this Errata is to clarify that Respondent City of Detroit is, in fact, compelled to comply with Petitioner’s discovery requests as provided on page three of the Order. As for the statement on page 2 of the Order, this discussion was meant to explain why the discovery requests were limited to the tax years at issue. This discussion is consistent with the Orders on page three wherein the discovery requests are partially granted and partially denied.

IT IS ORDERED that the Tribunal’s April 4, 2006 Order Partially Granting and Partially Denying Petitioner’s Motion to Compel Discovery shall be amended to replace all references on page three of Respondent Detroit Public Schools with Respondent City of Detroit.

IT IS FURTHER ORDERED that Petitioner’s Motion for Entry of Default and Sanctions Against Respondent City of Detroit for Violation of Order Compelling Discovery is DENIED.

IT IS FURTHER ORDERED that Respondent City of Detroit shall file discover responses complying with the April 4, 2006 Order, as corrected herein, within 28 days of the entry of this Order. Failure to comply with this Order may result in default, as provided by TTR 247.

MICHIGAN TAX TRIBUNAL

By: Patricia L. Halm

Entered: June 26, 2006